IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WP No. 17446 of 2006

Between :

M/s. Uma Electronic Corporation,
Governorpet, Vijayawada rep. by
Its Proprietor Mr.M.V.Suresh ..
Petitioner

And

Commercial Tax Officer,
Governorpet Circle,
Vijayawada and another ..
Respondents

Dated : 23rd August, 2006

ORAL ORDER : (per JC,J)

The petitioner is a dealer on the rolls of the 1st respondent-Commercial Tax Officer, Vijayawada, carrying business in electronic goods. For the assessment year 2000-01, the 1st respondent completed the assessment by his order dated 20.08.2001. It appears that on 30.12.2003, there was an inspection on the premises of the petitioner and the Inspecting Officers noticed certain irregularities in the accounts of the petitioner pertaining to the above mentioned assessment year. As a consequence of it, the petitioner's case for the assessment year 2000-01 came to be

reassessed by an order dated 17.09.2005. On completion of the assessment, a show cause notice proposing to impose penalty was also issued to the petitioner on the same day i.e., 17.09.2005. On receipt of the objections of the petitioner, a final order imposing penalty passed on 14.02.2006.

Challenging the said order, the petitioner carried the matter in appeal before the 2nd respondent-Appellate Deputy Commissioner (CT), Vijayawada, and the same is still pending. During the pendency of the said appeal, the petitioner also moved an application before the 2nd respondent praying that the recovery of the penalty be stayed, which was rejected. Eventually the petitioner carried the matter to this Court in WP No. 14103 of 2006. This Court by an order dated 13.7.2006 disposed of the writ petition directing the stay of the collection of the penalty during the pendency of the appeal before the Appellate Deputy Commissioner, Vijayawada.

It appears that the appeal of the petitioner was disposed of by the Appellate Deputy Commissioner by an order dated 5.7.2006 rejecting the appeal. Challenging the same, the petitioner carried the matter in a further appeal before the Sales Tax Appellate Tribunal. One of the grounds on which the appeal is carried is that notice of hearing was not afforded to the petitioner before the Appellate Deputy Commissioner. It's a question of fact which is required to be decided by the Appellate Tribunal on an examination of concerned records. Therefore the present writ petition is filed with the prayer as follows :

> "For aforesaid reasons, it is prayed that this Hon'ble Court may pleased to issue a Order,

Direction or a Writ more particularly one in the nature of Writ of Mandamus to restraining the 1st respondent from take coercive steps for recovery of disputed penalty of Rs.5,78,155/- levied for the year 2000-01 by order of 1st respondent dt. 14.02.2006, pending disposal of the appeal before the Sales Tax Appellate Tribunal, Visakhapatnam and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Heard the learned Government Pleader. In the facts and circumstances of the case, we are of the opinion that the matter can be disposed of at this stage by directing the respondents not to take any coercive steps for the recovery of the penalty which is the subject matter of dispute in the appeal before the Sales Tax Appellate Tribunal against the decision of the Appellate Deputy Commissioner, Vijayawada in Appeal No. VZA-II/63/2006-07, dated 5.7.2006.

(J.CHELAMESWAR, J)

(D.APPARAO, J)

23rd August 2006.
Knk